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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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5 UNITED STATES OF AMERICA, No. C 06-1304 SBA

6 Plaintiff, ORDER

7 v. [Docket No. 188]

8 CHRISTOPHER MURAD, et al.,

9 Defendants.

10 _____ /

11 This matter comes before the Court on Plaintiff's Motion for Leave to File an Amended
12 Complaint.13 **BACKGROUND**14 This is an action for ejectment, trespass, and injunctive relief. Plaintiff seeks to end all
15 unauthorized use of the United States' real property at Pleasure Cove Marina, located at Lake Berryessa,
16 Napa County, California. Prior to the filing of the original and First Amended Complaint, Mark and
17 Janette Caruso were taking voluntary steps to remove their mobile home and personal property from the
18 land. As such, the Carusos were not named as Defendants. Lucero Decl. at ¶ 5. However, Plaintiff has
19 since learned that the Carusos donated their mobile home to the California Water Posse, and that the
20 mobile home has not been and would not be removed. *Id.* at ¶ 6. The California Water Posse is an
21 entity which is owned and operated by the Half Moon Bay Coastsider Foundation; the Executive Director
22 of the California Water Posse is Oscar Braun. *Id.*23 Accordingly, Plaintiff seeks to file a second amended complaint adding the Carusos, the
24 California Water Posse, the Half Moon Bay Coastsider Foundation, and Oscar Braun as Defendants. *Id.*
25 at ¶ 7. Defendants have not filed an opposition to the Motion.26 **DISCUSSION**27 Federal Rule of Civil Procedure 15(a) provides that, after a first amendment, leave of court is
28 required to file an amended pleading. The Rule is to be applied liberally in favor of amendments and,

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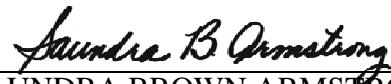
1 in general, leave shall be freely given when justice so requires. *Eminence Capital, LLC v. Aspeon, Inc.*,
2 316 F.3d 1048, 1051 (9th Cir. 2003); *Janicki Logging Co. v. Mateer*, 42 F.3d 561, 566 (9th Cir. 1994).
3 However, a district court need not grant leave to amend where the amendment: 1) prejudices the
4 opposing party; 2) is sought in bad faith; 3) produces an undue delay in litigation; or 4) is futile.
5 *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387 (9th Cir. 1990); *Moore v. Kayport Package Express*,
6 885 F.2d 531, 538 (9th Cir. 1989). Of these factors, prejudice to the opposing party is the most
7 important. *Jackson*, 902 F.2d at 1387 (citing *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S.
8 321, 330-31 (1971)). There is no evidence that any of the above factors are present in this case.

9 Further, under this Court's standing orders, "[t]he failure of the opposing party to file a
10 memorandum of points and authorities in opposition to any motion shall constitute a consent to the
11 granting of the motion." Accordingly, the Court deems Defendants to have consented to Plaintiff's
12 Motion.

13 IT IS HEREBY ORDERED THAT Plaintiff's Motion for Leave to File an Amended Complaint
14 is GRANTED.

15 IT IS SO ORDERED.

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17 Dated: 10/30/06


18 SAUNDRA BROWN ARMSTRONG
United States District Judge

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